

- 1 ZG25KW-1
- 2 By Senator Singleton
- 3 RFD: Judiciary
- 4 First Read: 07-Mar-23

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SYNOPSIS:

Under existing law, a person commits the crime of unlawful possession of marijuana in the first degree if he or she possesses marijuana for other than personal use or possesses marijuana for personal use only after having been previously convicted of unlawful possession in the second degree or unlawful possession of marijuana for his or her personal use only.

This bill would amend the crime of unlawful possession of marijuana in the first degree to provide that a person commits the crime if he or she possesses one or more ounces of marijuana and would prescribe new criminal penalties based on the number of prior violations.

Under existing law, a person commits the crime of unlawful possession of marijuana in the second degree if he or she possesses marijuana for personal use only. Existing law also provides that the crime of unlawful possession of marijuana in the second degree is a Class A misdemeanor.

This bill would amend the crime of unlawful possession of marijuana in the second degree to provide that a person commits the crime if he or she possesses less than one ounce of marijuana and would reduce the criminal penalty to a violation, punishable by a fine.



This bill would also provide that a person who is charged with, found not guilty of, or convicted of unlawful possession of marijuana in the first or second degree may have that charge, finding, or conviction expunged if he or she has not been convicted of a felony, misdemeanor, or violation, excluding minor traffic violations, within the last five years.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the amendment.

A BILL

TO BE ENTITLED



57	AN ACT
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59	Relating to crimes and offenses; to amend Sections
60	13A-12-213 and 13A-12-214, Code of Alabama 1975, to provide
61	further for the crimes of unlawful possession of marijuana in
62	the first and second degrees; to revise the criminal
63	penalties; to provide for expungement of a charge, finding, or
64	conviction, under certain conditions; and in connection
65	therewith would have as its purpose or effect the requirement
66	of a new or increased expenditure of local funds within the
67	meaning of Section 111.05 of the Constitution of Alabama of
68	2022.
69	BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
70	Section 1. Sections 13A-12-213 and 13A-12-214, Code of
71	Alabama 1975, are amended to read as follows:
72	"\$13A-12-213
73	(a) A person commits the crime of unlawful possession
74	of marihuana marijuana in the first degree if, except as
75	otherwise authorized÷, he or she possesses one or more ounces
76	of marijuana.
77	(1) He or she possesses marihuana for other than
78	personal use; or
79	(2) He or she possesses marihuana for his or her
80	personal use only after having been previously convicted of
81	unlawful possession of marihuana in the second degree or
82	unlawful possession of marihuana for his or her personal use
83	only.

(b) Unlawful possession of marihuana marijuana in the

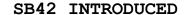
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first degree pursuant to subdivision (1) of subsection (a) is

punishable as follows:

- (1) Upon a first conviction of this section within the preceding five years, the person is guilty of a Class C misdemeanor, punishable only by a fine not to exceed two hundred fifty dollars (\$250).
- 91 (2) Upon a second conviction of this section within the 92 preceding five years, the person is guilty of a Class C 93 misdemeanor, punishable only by a fine not to exceed five 94 hundred dollars (\$500).
 - (3) Upon a third or subsequent conviction of this section within the preceding five years, the person is guilty of a Class ED felony, punishable only by a fine not to exceed seven hundred fifty dollars (\$750).
 - (c) Unlawful possession of marihuana in the first degree pursuant to subdivision (2) of subsection (a) is a Class D felony. All fines and forfeitures collected upon conviction or upon forfeiture of bail of any person charged with a violation of this section shall be deposited into the State Treasury to the credit of the State General Fund.
 - who has been charged with, found not guilty of, or convicted of violating this section may file a petition in the criminal division of any circuit court to expunge records related to the charge, finding, or conviction when the person has not been convicted of any other felony, misdemeanor, or violation, excluding minor traffic violations, during the previous five years. Upon the granting of a petition, the court shall order





113 the expungement of all records of the person as provided in Section 15-27-6." 114 "\$13A-12-214 115 116 (a) A person commits the crime of unlawful possession 117 of marihuana marijuana in the second degree if, except as otherwise authorized, he or she possesses less than one ounce 118 119 of marijuanamarihuana for his personal use only. 120 (b) Unlawful possession of marihuana marijuana in the 121 second degree is a Class A misdemeanor violation punishable only by a fine not to exceed two hundred dollars (\$200). 122 123 "(c) A violation of this section alone shall not be accompanied by a charge pursuant to Section 13A-12-260. 124 125 "(d) All fines and forfeitures collected upon conviction or upon forfeiture of bail of any person charged 126 127 with a violation of this section shall be deposited into the State Treasury to the credit of the State General Fund. 128 129 "(e) Notwithstanding Chapter 27 of Title 15, a person 130 who has been charged with, found not guilty of, or convicted 131 of violating this section may file a petition in the criminal 132 division of any circuit court to expunge records related to 133 the charge, finding, or conviction when the person has not 134 been convicted of any other felony, misdemeanor, or violation, 135 excluding minor traffic violations, during the previous five 136 years. Upon the granting of a petition, the court shall order 137 the expungement of all records of the person as provided in Section 15-27-6." 138 Section 2. Although this bill would have as its purpose 139 140 or effect the requirement of a new or increased expenditure of



141	Todal lunds, the bill is excluded from further requirements
142	and application under Section 111.05 of the Constitution of
143	Alabama of 2022, because the bill defines a new crime or
144	amends the definition of an existing crime.
145	Section 3. This act shall become effective on the first
146	day of the third month following its passage and approval by
147	the Governor, or its otherwise becoming law.